

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

<b>TODD HERSHEY,</b>	:	<b>Civil No. 1:21-cv-0506</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>THE PENNSYLVANIA</b>	:	
<b>DEPARTMENT OF</b>	:	
<b>TRANSPORTATION, et al.,</b>	:	
	:	
<b>Defendants.</b>	:	<b>Judge Sylvia H. Rambo</b>

**ORDER**

AND NOW, this 29<sup>th</sup> day of September 2023, IT IS HEREBY ORDERED  
that the motion to dismiss (Doc. 48) the Second Amended Complaint (Doc. 46) is  
GRANTED IN PART and DENIED IN PART as follows:

1. Count 1 (FMLA Retaliation) is DISMISSED WITH PREJUDICE as asserted against PennDot and DISMISSED WITHOUT PREJUDICE as asserted against Defendants Prestash, Krammerer, Yeckley, and Matchock;
2. Count 2 (FMLA Interference) is DISMISSED WITH PREJUDICE;
3. Count 3 (Violation of the Wage Payment and Collection Law) is DISMISSED WITH PREJUDICE;
4. Count 4 (Violation of the Due Process Clause of the 14<sup>th</sup> Amendment and 42 U.S.C. § 1983) is DISMISSED WITH PREJUDICE; and
5. Count 5 (Breach of Contract) is DISMISSED WITH PREJUDICE.

Plaintiff may file an amended complaint as to Count 1 in accordance with the court's memorandum within 21 days of this order.

*s/Sylvia H. Rambo*

SYLVIA H. RAMBO

United States District Judge